LIBRARY
SUPREME COURT, U. S.

Office-Supreme Court, U.S.
FILED
JAN 5 1967
JOHN F. DAVIS, CLERK

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1966.

No. 796.

CRANE BOOM LIFE GUARD CO., INC., MEL EPPERSON, FREDA EPPERSON, C. E. HAILE, PAULINE HAILE, OSRO COBB, C. H. SANSOM and S. A. COFFEY,
Petitioners,

vs.

SAF-T-BOOM CORPORATION, C. H. EARL and ARTHUR J. THOMAS,
Respondents.

RESPONSE OF PETITIONERS.

OSRO COBB,
Justice Building,
Little Rock, Arkansas,
Counsel for Petitioners.

J. HEISKELL WEATHERFORD, JR.,
1438 Commerce Title Building,
Memphis, Tennessee 38103,
Associate Counsel for Petitioners.

St. Louis Law Printing Co., Inc., 415 N. Eighth Street. CEntral 1-4477.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1966.

No. 796.

CRANE BOOM LIFE GUARD CO., INC., MEL EPPERSON, FREDA EPPERSON, C. E. HAILE, PAULINE HAILE, OSRO COBB, C. H. SANSOM and S. A. COFFEY,
Petitioners,

vs.

SAF-T-BOOM CORPORATION, C. H. EARL and ARTHUR J. THOMAS,
Respondents.

RESPONSE OF PETITIONERS.

I.

The Opinion in the present case as delivered by the Eighth Circuit Court of Appeals, 362 F. 2d 317, is in direct conflict with **Addressograph-Multigraph Corp. v. Cooper,** 159 F. 2d 483, and is also in conflict with the principles of **U. S. v. International Building Co.,** 345 U. S. 502.

Respondents in Memorandum (pp. 1, 2) state:

> "but the Petitioner in this case has grounded his claim for jurisdiction on the premise that the opinion in the case of Addressograph-Multigraph Corp. v. Cooper (C. A. 2), 156 F. 2d 483, and the opinion of

this Court in the case of United States v. International Building Co., 345 U. S. 502, are inconsistent and that by virtue of such, this Court has jurisdiction";

and at 5, Respondents state:

"United States v. International Building Co., supra, which decision is alleged to be inconsistent with Addressograph-Multigraph".

These statements are completely contrary to the Petition for a Writ of Certiorari. **Addressograph** and **U. S. v. International** are themselves consistent; the opinion of the Circuit Court of Appeals for the Eighth Circuit which is here under review is in conflict with those two opinions.

United States v. International Building Co., 345 U. S. 502, states the broad principles relative to a Consent Decree; **Addressograph-Multigraph Corp. v. Cooper**, 159 F. 2d 483, pinpoints the same principles in connection with a Consent Decree in a patent case. These decisions support the position of Petitioners herein and the opinion of the Circuit Court of Appeals for the Eighth Circuit in this case is in conflict with those decisions.

II.

Respondents insist that the entire basis for the Petition for a Writ of Certiorari is upon the inconsistency of prior decisions cited by Petitioners. This is false. The public policy aspect of the enforcement (under any guise) of a patent obtained by fraud upon the Patent Office and which is manifestly invalid is the searching basis here. Respondents conveniently overlook and make no attempt to explain the fraud on the Patent Office and on the public.

III.

On page 5 of Memorandum, Respondents refer to the prior Decrees of the District Court and state:

"The United States District Court on both occasions held that the patents were valid."

Neither the original Decree (Petition, Appendix C, page 33) nor the Supplemental Decree (Petition, Appendix E, page 44) mentions the validity of Thomas Patent 2,950,016.

Not only did the original Defendants reject a Consent Agreement which referred to infringement (R. 12, Petition 14, Footnote 14), the Decree of the Court did not mention it. Not only were the original Defendants not interested in the validity of Thomas 2,950,016 (they refused to admit to prior infringement) the Decree of the District Court did not mention validity.

IV.

Respondents completely ignore Coffey Patent 3,100,575 gratuitously declared invalid by the District Court in the absence of any evidence directed against the validity of or applied to such Coffey Patent. This is understandable: there is no evidence. The District Court here must be clearly erroneous.

V.

The Petition for a Writ of Certiorari should be granted.

Respectfully submitted,

OSRO COBB,
Justice Building,
Little Rock, Arkansas,
Counsel for Petitioners.

J. HEISKELL WEATHERFORD, JR.,
1438 Commerce Title Building,
Memphis, Tennessee 38103,
Associate Counsel for Petitioners.